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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/744,703    03/26/01    STRAUB

A    LEA-33-187

EXAMINER

HM12/0808

BAYER CORPORATION  
400 MORGAN LANE  
WEST HAVEN CT 06516

TRUONG, T.

ART UNIT

PAPER NUMBER

1624  
DATE MAILED:

08/08/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application N .

09/744,703

Applicant(s)

STRAUB ET AL.

Examiner

Tamthorn N. Truong

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 10, 11 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 11 and 13-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No. 1-29-01 filed
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Applicant's preliminary amendment filed on 3-26-01 has been considered. Accordingly, claims 9 and 12 are cancelled, leaving claims 1-8, 10, 11, and 13-<sup>21</sup>~~18~~ pending for prosecution.

### *Specification*

There are drawings presented in the application. However, a section of "BRIEF DESCRIPTION OF DRAWINGS" is not included in the specification.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-8, 10, 11, and 13-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following reasons apply:

- a. The phrase "**up to**...carbon atoms" is unclear as to what is the range of the carbon atoms. That is, the lower limit is not known while the upper limit is uncertain.
- b. The term "medicaments" seems to suggest a composition. However, it can also refer to a "product" (i.e., compound). Thus, it is unclear which is claimed here, a composition or a product.

c. Claim 6 recites a definition for "D" which includes a definition for R<sup>38</sup>. However, it is unclear as to how R<sup>38</sup> relates to the functional groups represented by "D".

Furthermore, the definition of R<sup>35</sup> is missing.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 13-15, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Straub et. al.** (WO 98/16507). Based on the written opinion of PCT/EP 99/05073, the teaching of Straub et. al. (WO 98/16507 and WO 98/23619) renders obvious the compounds of claim 1 for the following reason:

The teaching of Straub et. al. describes a wide range of possible substituents in the substitution pattern on the 6-membered heterocycle in position 3 of the pyrazole ring; no direct reference is made to cycloalkyl groups as possible substituents, but according to Straub et. al., phenyl and even functional groups can be taken into consideration as well as alkyl groups without impairment of the biological activity (see definition of R<sup>1</sup> in claim 1 of WO'507. However, in the teaching of Straub et. al. (WO 98/23619), in which

pyrazolo[3,4-b]pyridines or indazole derivatives, substituted *inter alia* with pyrimidinyl groups in position 3 of the pyrazole unit, are presented as agents for the treatment of cardiovascular diseases, the substitution of the heterocyclic ring in position 3 of the condensed pyrazole ring is left fairly open (see page 6). A person skilled in the art would therefore regard the incorporation of the cycloalkyl group instead of an alkyl or phenyl group in the compounds described in WO'507 as a conventional alternative measure for solving the technical problem of interest. This type of minor structural modification of a group of already known compounds with identical biological properties can, however, only be considered to be inventive if the use of the distinguishing structural feature produced unexpected effects or properties compared with the already known compounds. Although method claims were found unobvious in the PCT written opinion, they are deemed unpatentable here because they relate a method of treating cardiovascular, thromboembolic, inflammatory diseases which are also taught in the above documents. Thus, at the time of the invention, it would have been obvious to one skilled in the art to make and use compounds as claimed herein in view of the teaching of Straub et. al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 703-305-4485. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached on 703-308-4716. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.



***Tamthom N. Truong***  
***Examiner***  
***Art Unit 1624***

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August 4, 2001